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FILED

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Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

December 6, 2010

Ed Smith
Montana Supreme Court Clerk
P. O. Box 203003
Helena, MT 59620-3003

Re: Limited Scope Representation (LSR)

Dear Mr. Smith:

The Supreme Court has requested comments and input from Montana attorneys regarding Limited Scope Representation (LSR). I'll try to be brief: Most attorneys, to one extent or another, end up practicing LSR for a myriad of reasons too numerous to mention here. However, it is worth mentioning a lot of matters which begin as fee generating work become LSR and pro bono because the client runs out of funds and the Judge does not allow the attorney's withdrawal. Consequently some matters become involuntary pro bono. Other times a client simply depletes their funds and an attorney continues on a voluntary pro bono basis. There are as many reasons for pro bono work as there are clients.

LSR potential problems:

1. Civil procedure: It appears the Court's goal is to allow a person to appear in Court pro se with all documents prepared by an attorney and filed by the LSR client. If the client is responsible for timely Court appearances, filing deadlines and other navigation through the Rules of Civil Procedure, there is a legitimate probability the LSR client will err in such a manner to the end result a case may not get to hearing on the merits. This raises the issue of LSR clients being prepared by his attorney as to said Rules of Procedure and what level of preparation will be required by the LSR client. Additionally, does the Court intend to make different Rules of Procedure for the LSR client and if so, will it be fair for the other side who is represented by an attorney?

2. Blame for negative results: This Court is more than aware of its rulings and district court rulings which fail to get to hearing on the merits because of some procedural error. Also, our system being adversarial, where one party prevails over the other for any number of reasons, an LSR client may look to the attorney's shortcomings in pleadings, etc.. This consideration should also be included in a client's improper false expectations considering either the facts or

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the law.

3. Expansion of Rule 1.2: Because the Court is considering expansion of Rule 1.2, it is important that this rule, because it will be read by many lay people, be easily understandable.

4. Retainer forms: In the event the Supreme Court does alter this rule, to assure most lawyers are on the same page, it is suggested attorney-client LSR contract forms be prepared clearly explaining what each party's specific duties and obligations are in an LSR relationship. At least some type of checklist inventory of various services may be delineated for common understanding between the attorney and the LSR client.

Thank you for considering these suggestions.

Very Truly,

A handwritten signature in cursive script, reading "William A. Schreiber".

William A. Schreiber

WAS/cr